APPENDIX

No. 73-1989

UNITED STATES COURT OF APPEALS

FOR THE SIXTH CIRCUIT

UNITED STATES OF AMERICA, - - *Plaintiff-Appellee*

v.

L. C. COOK, - - - - - - *Defendant-Appellant*

ORDER

Before: PHILLIPS, Chief Judge; LIVELY and ENGEL, Circuit Judges

This cause came on for hearing on the petition for rehearing with a suggestion that it be reheard en banc.

It appearing to the court that no judge has requested that a vote be taken on said suggestion, the petition for rehearing was considered by the panel and was determined not to be well taken.

It is therefore ORDERED that the petition for rehearing be denied.

Entered by Order of the Court

(s) John P. Hehman
Clerk

FILED
May 22, 1975
JOHN P. HEHMAN, Clerk

Nos. 73-1988 and 1989
Nos. 73-1990, 1991 and 1992

UNITED STATES COURT OF APPEALS

FOR THE SIXTH CIRCUIT

No. 73-1988
UNITED STATES OF AMERICA,
Plaintiff-Appellee,
v.
BILLY MAYES, et. al.,
Defendants-Appellants.
No. 73-1989
UNITED STATES OF AMERICA,
Plaintiff-Appellee,
v.
L. C. COOK,
Defendant-Appellant.

ON APPEAL from the United States District Court for the Western District of Kentucky.

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Decided and Filed February 25, 1975.

Before: PHILLIPS, Chief Judge, LIVELY and ENGEL, Circuit Judges.

ENGEL, Circuit Judge. In this case, nineteen defendants appeal from judgments entered upon a jury verdict, in which they were found guilty of violating the federal criminal conspiracy statute, 18 U.S.C. § 371.[1] Their appeals

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[1] 18 U.S.C. § 371 provides:

§ 371. Conspiracy to commit offenses or to defraud United States

If two or more persons conspire either to commit any offense against the United States, or to defraud the United

(Footnote continued on following page.)

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raise a number of issues, including whether the government proved a single conspiracy, the sufficiency of the evidence as to certain defendants, the propriety of the judge's jury instructions, peremptory challenge of jurors, severance, double jeopardy, and right of confrontation.

On August 15, 1972, a grand jury empanelled in the United States District Court for the Western District of Kentucky, returned an indictment, count one of which charged 28 persons with conspiracy to violate the Dyer Act (18 U.S.C. §§ 2312, 2313[2]). The indictment charged that the named defendants and thirteen others (named but un-

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States, or any agency thereof in any manner or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy, each shall be fined not more than $10,000 or imprisoned not more than five years, or both.

If, however, the offense, the commission of which is the object of the conspiracy, is a misdemeanor only, the punishment for such conspiracy shall not exceed the maximum punishment provided for such misdemeanor. June 25, 1948, c. 645, 62 Stat. 701.

[2]18 U.S.C. § 2312 provides:

§ 2312. Transportation of stolen vehicles

Whoever transports in interstate or foreign commerce a motor vehicle or aircraft, knowing the same to have been stolen, shall be fined not more than $5,000 or imprisoned not more than five years, or both. June 25, 1948, c. 645, 62 Stat. 806.

18 U.S.C. § 2313 provides:

§ 2313. Sale or receipt of stolen vehicles

Whoever receives, conceals, stores, barters, sells, or disposes of any motor vehicle or aircraft, moving as, or which is a part of, or which constitutes interstate or foreign commerce, knowing the same to have been stolen, shall be fined not more than $5,000 or imprisoned not more than five years, or both. June 25, 1948, c. 645, 62 Stat. 806.

The remaining counts of the 25-count indictment charged individual defendants with substantive violations of the Dyer Act. Those counts were not tried below and are not a part of this appeal.

indicted) conspired to transport, receive, conceal, store, barter, sell and dispose of stolen motor vehicles, moving in interstate commerce. The multi-state stolen car operation was alleged to have been based in Kentucky, and to have involved activities in a total of at least ten states including Tennessee, Indiana, Ohio, Alabama, North Carolina, Arkansas, Georgia, Missouri, and Mississippi. The thirty-seven page indictment generally outlined the elements of the alleged illegal arrangement, and included in its original form a list of seventy-one overt acts allegedly taken in furtherance of the conspiracy.

On April 2, 1973, twenty-four of the named defendants came on for trial to a jury. One of the defendants, William Belvy Barbee, pled guilty during the trial, and another, Charlotte Mayes, was acquitted by direction of the trial judge at the conclusion of the government's proofs. On May 23, 1973, after eight weeks of trial, and consideration of the testimony of several hundred witnesses, the jury returned a verdict acquitting defendants Billy D. Miller, Charles Adams and Ronald Kinser, and finding the remaining nineteen defendants guilty as charged. They appeal.

In our review of a case involving so many individuals claimed to have participated in so many incidents covering a broad geographical area, it has been particularly necessary to examine the trial as a whole for any errors which might affect the fairness of the entire proceedings. Similarly, it has been necessary to examine closely the specific evidence which is claimed to support the conviction of each individual defendant. Thus, our review has included a complete examination of more than 9,000 pages of transcript, keeping in mind the admonition of Justice Rutledge in *Kotteakos* v. *United States*, 328 U. S. 750, 772 (1946):

> "Guilt with us remains individual and personal, even as respects conspiracies. It is not a matter of mass

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application. There are times when of necessity, because of the nature and scope of the particular federation, large numbers of persons taking part must be tried together or perhaps not at all, at any rate as respects some. When many conspire, they invite mass trial by their conduct. Even so, the proceedings are exceptional to our tradition and call for use of every safeguard to individualize each defendant in his relation to the mass."

THE CONSPIRACY—

The government alleged that the named defendants were all a part of a conspiracy wherein certain co-conspirators would either steal or cause to be stolen automobiles in the ten-state area.[3] In certain instances wrecked automobiles or parts thereof were purchased, the registration papers and other indicia of vehicle identification so obtained being then transferred to the similar stolen autos. The original identification of the stolen autos would then be destroyed or altered so as to provide a completely new and apparently legitimate identity to the stolen vehicles. In addition to such alteration and substitution, the conspiracy involved a complicated scheme to obtain false motor vehicle registration certificates and bills of sale.

The success of the conspiracy was largely due to the participants' ability to sell stolen cars which appeared, on all but the closest examination, to have been legitimately acquired and registered. Thus, the papers of a wrecked automobile as well as the forged papers purportedly issued elsewhere were presented to a county clerk to obtain new

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[3]Because of the factual complexity of the case, what follows is intended to be more illustrative than all-encompassing in spelling out the nature of the operation. In many facets, the circumstances here are similar to those reported in *United States* v. *Goble, et al.*, No. 73-1764-7 (6th Cir. decided and filed ————————, 1975).

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and seemingly valid papers matching the numbers and description of the stolen vehicle. This was made possible by the decentralized nature of the Kentucky registration system, whereby registrations were issued out of each of some 35 different county clerks' offices. By constantly moving from county seat to county seat and appearing at rush hours, the possibility of detection was minimized. Further laundering was accomplished by having the newly created vehicle subjected to a vehicle safety inspection usually at the automobile agency of acquitted defendant Billy D. Miller, thus providing additional evidence of legitimate identification.

Evidence at the trial indicated that as many as 1800 stolen automobiles may have been involved during the period of the claimed conspiracy. Most proof at trial was confined to evidence of the overt acts included in the indictment, originally seventy-one, but later reduced to sixty-five.

Evidence as to each overt act generally included the testimony of the original owner, testimony regarding the particulars of the theft, followed by testimony by the ultimate and usually innocent purchaser of the stolen and altered vehicle. The chain of evidence of ownership was carefully presented through presentation of the certificates filed with the county clerks, and was then shown to be authentic or forged. Evidence was introduced, as to forged vehicles, showing that the serial number assigned was issued to the owner of a completely different automobile.

In this manner, the government took the jury step-by-step through the maze of facts which were to prove the overt acts and the existence of a conspiracy.

ISSUES ON APPEAL

While all nineteen appellants were tried together, four separate appeals were docketed, reflecting appellants' representation by four separate counsel or groups of counsel. To avoid repetition, while assuring careful attention to the claims of each individual, we have reorganized the issues and will treat, first, those of a general nature which could, if meritorious, affect the right of all defendants. We shall then proceed to those issues which are claimed to affect particular defendants.

I. COMMON ISSUES

A. Was more than one conspiracy shown?

It is claimed that the government failed to prove the existence of a single conspiracy of which all of the defendants were a part, but in fact proved two or more conspiracies, in consequence denying the defendants' right "not to be tried en masse for the conglomeration of distinct and separate offenses committed by others". *Kotteakos* v. *United States*, *supra*, at p. 775.

While we treat later in this opinion the question of the sufficiency of the evidence to connect each defendant with the conspiracy alleged, we conclude that the existence of a single conspiracy was in fact proved.

The government established the formation of a central organization, masterminded by such individuals as Billy Mayes, Shirley Basham and William Albert Hudson. It further proved that these leaders secured the services of car thieves, such as co-conspirator James Cecil Wilson, defendant William Henry Wilson, co-conspirator Claude Dillon and others. The interstate transportation of the cars, the forging and alteration of identification, and the fencing of the cars were proved. These activities were

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shown to involve both the unindicted co-conspirators and the defendants.

While the government did not prove that each defendant knew or was involved with all of the activities of all other defendants, this is not an essential element of proving a single conspiracy. *United States* v. *Levinson,* 405 F. 2d 971 (6th Cir. 1968). Indeed in any large organization, legal or illegal, it is common for willing participants not to be acquainted with all of the members of the organization, or even to know the nature of every aspect of the operation. Nor does the fact that the conspiracy continued over a long period of time and contemplated the commission of many illegal acts transform the single conspiracy into several conspiracies. *Braverman* v. *United States,* 317 U. S. 49 (1942); *United States* v. *Goble, et al.,* No. 73-1764-67 (6th Cir. decided and filed _____, 1975). A conspiracy is completed when the intended purpose of the conspiracy is accomplished. But where a conspiracy contemplates a continuity of purpose and a continued performance of acts, it is presumed to exist until there has been an affirmative showing that it has terminated; and its members continue to be conspirators until there has been an affirmative showing that they have withdrawn. *United States* v. *Ethridge,* 424 F. 2d 951, 964 (6th Cir. 1970).

Appellants here, however, do not claim that the conspiracy ended and another began. They assert the existence of more than one conspiracy existing at the same time, arguing that the government has attempted to tack together several 'parallel' conspiracies. Viewing the evidence in the light most favorable to the government, *Ethridge, supra,* we conclude that the government succeeded in showing that the many acts occurring over a long period of time and involving many people were all a part of a single conspiracy. The conspiracy shown was quite long lived and very successful until it was detected. It spread over a large geo-

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graphical area. It appears that because of the very success and widespread nature of the organization, defendants now claim that it was not one unified undertaking, but a series of disjointed and separate activities which might have enjoyed some commonality, but which lacked the essential continuity and singleness of purpose necessary to prove one conspiracy. We cannot agree. *United States* v. *Goble, supra.*

While not passing at this point upon the question of whether each of the named appellants was in fact a part of the conspiracy, we conclude, upon an examination of the entire record, that the evidence supported a conclusion by the jury that one continuous conspiracy was proved.

B. The Jury Instruction Generally

Common to all appeals here is the claim that the trial court's charge to the jury was, as described by one appellant, "so vague and nonspecific as to leave the battered and confused minds of the laymen who composed the jury in a state of confusion as to what they were to determine" and "lacked sufficient clarity and precision to enable the jury to perform its function of finding the relevant facts and applying law to them". It was further claimed that the instructions, which covered 113 pages of transcript, failed to protect the right of each defendant to an individual examination by the jury of his guilt or innocence. Finally, it was claimed that they did not make sufficiently clear that the defendants were on trial for conspiracy and not for any substantive offenses shown to have been committed by proof offered in support of the overt acts alleged.

The instructions were indeed long. They were repetitious, probably intentionally so, to impress upon the minds of the jury the importance of certain principles of law. The instructions were delivered in a colloquial fashion by an experienced judge who took pains to employ the "common

speech of man". *Downie, et al.* v. *Powers*, 193 F. 2d 760, 767 (10th Cir. 1951). The trial judge frequently employed the technique of explanation by way of illustration and example to heighten the meaning of difficult legal concepts.

Contrary to the assertion of the appellants, the court did emphasize that the charge was conspiracy and not auto theft:

> "This is not a charge of stealing automobiles; it's a charge that a conspiracy existed for the purpose of stealing them and transporting them in interstate commerce."

The trial judge also properly instructed the jury more than once that a conspiracy must first be proved before the jury could consider which, if any, of the defendants were a part of it. We also find that the trial judge was particularly sensitive to the danger of loss of individual identity and consequent guilt by association. He instructed the jury numerous times that guilt or innocence must be determined on an individual basis for each defendant. He instructed the jury on the law of conspiracy not only with technical accuracy, but as well followed the advice of Lord Bacon that "you should be a light to open their eyes, but not a guide to lead them by the noses."[4]

While the danger of confusion is indeed present in any case of this magnitude, we were impressed by the overall lucidity, balance and fairness of the trial judge's charge here. This charge was clearly not ambiguous and confusing to the point of plain error. Cf. *Bollenbach* v. *United States*, 326 U. S. 607 (1946).

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[4]Quoted by Judge Soper in The Charge to the Jury, 1 F.R.P. 540, 545 (1940).

C. Peremptory Challenges

Under Rule 24(b) of the Federal Rules of Criminal Procedure, a defendant or defendants are entitled to a total of ten peremptory challenges. It is further provided that "If there is more than one defendant, the court may allow the defendants additional peremptory challenges and permit them to be exercised separately or jointly".

Here, the trial judge allowed a total of twenty-four peremptory challenges to be exercised by the twenty-four defendants. Defendants-appellants urge that the trial judge abused his discretion in the manner in which he permitted the challenges to be exercised. The claims of the several groups of counsel on appeal are somewhat inconsistent. Counsel for defendant Billy Mayes and several others complains that the trial judge erred in requiring "that all attorneys for defense agree to the exercise of each of the twenty-four peremptory challenges granted to the defendant". On the other hand, counsel representing only one defendant, such as the attorneys of Ernest Frank Fowler and L. C. Cook felt themselves unfairly limited to a single peremptory strike.

The record reflects that the method employed in the exercise of the peremptory challenges was somewhat informal. Most challenges were exercised separately following a conference of the counsel. When the number of challenges remaining was reduced to three, difficulty did develop which was resolved by a mutual agreement to exercise those remaining in a joint manner.

In the selection of jurors, the district court is accorded a wide latitude of discretion. As Professor Wright has observed:

> "It is well established that the federal court is not bound to the particular method of selecting a jury that is required by state law, and where the subject is not

> controlled by statute, the order in which peremptory challenges shall be exercised is in the discretion of the court. The rules do not prescribe any particular method of exercising peremptory challenges, and the practice varies widely from district to district, regulated only by local rule or custom." 2 Wright, Federal Practice and Procedure: Criminal § 387

We find that the trial judge did not abuse his discretion in the application of Rule 24(b) in this case.

D. The Separate Trial Issue; Loss of the Right to Control One's Defense.

Throughout these appeals, it is contended that the court should have granted the several pretrial motions for severance made by the defendants. Appellants claim that because they were required to be tried en masse, they were prejudiced by evidence relating to some defendants and not to others, they were deprived of the right to control their own defense; and they were unduly burdened by the length and expense of the trial. Specifically, defendants Newberry and Crawley objected to testimony elicited by counsel for certain other defendants which implied that a threat and a demand for money had been conveyed to the defendant William Hudson by counsel for Max Bayer, an unindicted coconspirator. Similarly, several defendants complain that they were prejudiced by the appearance of one Joseph Goldman who, when called by other defendants, was completely discredited as a witness in front of the jury.

Defendants Fowler and Cook complain primarily that their own alleged involvement in the conspiracy was at best peripheral and the proof relevant thereto could have been presented in a very short time. Thus, they claim, to have involved them in a trial of this length was an unfair and onerous burden upon their time and resources, subjecting

them to the dangers pointed out in *Kotteakos* v. *United States, supra:*

> "But as it [the conspiracy] is broadened to include more and more, in varying degrees of attachment to the confederation, the possibilities for miscarriage of justice to particular individuals become greater and greater . . . At the outskirts they are perhaps higher than in any other form of criminal trial our system affords." 328 U. S. at 776

The decision of whether to grant a severance to co-defendants lies within the sound discretion of the trial court, *Opper* v. *United States,* 348 U. S. 84 (1954); *United States* v. *Goble, supra.* See also *Metcalf* v. *United States,* 195 F. 2d 213 (6th Cir. 1952); *Poliafico* v. *United States,* 237 F. 2d 97 (6th Cir. 1956). We note that the trial court did sever the conspiracy trial from the substantive auto theft charges as to all defendants. Thus these defendants fared better than those in *Poliafico, supra,* wherein eighteen defendants went to trial on both conspiracy and substantive counts.

Moreover, we are not persuaded that these defendants were prejudiced by the joint trial. The testimony to which Crawley and Newberry objected was impeachment testimony which backfired, but it was not inadmissible and its impact was reduced by the disavowals of their counsel at the time. Likewise, some of the individual defendants urge that severance of their trials would have spared them the expense and inconvenience of the longer trial. While this practical consideration merits our careful attention, it assumes that the prosecution was entitled to prove only the actual involvement of each defendant charged, and not the scope of the entire conspiracy. Whether the trials were joint or separate, the government could prove the entire scope of the conspiracy, though one defendant's role in it

was limited. We find no error in the refusal of the trial judge to grant any of the motions for a severance.[5]

II. SUFFICIENCY OF EVIDENCE

A number of defendants claim that even if the government has proved the conspiracy, evidence of their participation in it was insufficient to sustain conviction. While we have already held that the jury could properly have found the existence of a single conspiracy here, this of course does not dispose of the issue of sufficiency as to each defendant convicted. *Kotteakos, supra.* In reviewing for sufficiency of the evidence, we view the evidence in the light most favorable to the government. *Glasser* v. *United States,* 315 U. S. 60 (1942).

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B. Tabor, Bewley and Cook.

Th involvement of defendants Fred Tabor, Lewis H. Bewley, and L. C. Cook was less extensive and has merited close scrutiny. We conclude, however, that under applicable law the extent of their involvement was sufficient for the jury to have found them to be a part of the conspiracy.

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Discussion: It has been held that once a conspiracy has been established, only slight evidence is necessary to connect a defendant with it. *United States* v. *Chambers,* 382 F. 2d 910 (6th Cir. 1967); *Poliafico, supra.* We conclude that there was sufficient evidence to support a jury determina-

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[5]One additional claim is raised as a common issue. Certain defendants claim that the trial judge should have permitted them to testify and to call other defendants to testify about certain aspects of the conspiracy, without waiver of their Fifth Amendment right not to respond to questions about the car thefts which were also the subject of the separate substantive counts of the indictment. On the record before us, we find this contention to be without merit.

tion that, beyond a reasonable doubt, these three defendants were connected with the conspiracy.

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Both Bewley and Cook were shown to have knowingly purchased stolen vehicles from members of the conspiracy with knowledge of the conspiracy and its purposes. Indeed, Cook concedes this much. They claim that they were customers only, acting in their own individual interests, and cannot be held as conspirators. In *United States* v. *Ford*, 342 F. 2d 950, 952 (7th Cir. 1963), it was held that:

> "The relationship of buyer and seller absent any prior or contemporaneous understanding beyond the mere sales agreement does not prove a conspiracy to sell, receive, barter or dispose of stolen property although both parties know of the stolen character of the goods. In such circumstance, the buyer's purpose is to buy; the seller's purpose is to sell. There is no joint objective."

The Supreme Court has also held that "one does not become a party to a conspiracy by aiding and abetting it, through sales of supplies or otherwise *unless he knows of the conspiracy;* and the inference of such knowledge cannot be drawn merely from the knowledge that the buyer will use the goods illegally." *Direct Sales* v. *United States*, 319 U.S. 703, 709 (1943), interpreting its previous decision in *Falcone* v. *United States*, 311 U. S. 205 (1940) (emphasis added).

There was proof these defendants had a "prior or contemporaneous understanding of the conspiracy beyond the mere sales agreement". *United States* v. *Ford, supra*, at 952. Moreover, their knowledge of the conspiracy need not be inferred from mere knowledge of illegality (the stolen nature of the vehicles). *Direct Sales, supra.* L. C. Cook's

presence at a meeting of three of the leading co-conspirators when "stolen vehicles" were discussed, *prior* to his purchase, was a sufficient basis for a finding that he knew of the conspiracy and not simply that the truck he purchased was stolen. As to Bewley, testimony established that he knew far more than merely that his Volkswagen possessed a questionable pedigree. His conversation with Captain Higgins revealed that he appeared fully aware of the salient features of the conspiracy itself.

We conclude that there was evidence from which the jury could find that all three of these defendants knew of the existence and purposes of the Bowling Green conspiracy at the time of their alleged involvement. They benefited from it and they contributed to its success. This is sufficient.

III. ISSUES AFFECTING INDIVIDUAL DEFENDANTS

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B. L. C. Cook: Hearsay to establish conspiracy

Defendant L. C. Cook contends that hearsay evidence was erroneously admitted to connect him with the conspiracy and that his conviction should, therefore, be reversed. He asserts that a prima facie case of the existence of the conspiracy and his connection with it must be established independently of hearsay testimony admitted under the co-conspirator exception to the hearsay rule, relying upon *Glover* v. *United States*, 306 F. 2d 594 (10th Cir. 1962). He claims that such independent evidence was not presented, and that hearsay testimony of unindicted co-conspirator Barry Lynn Clayton was necessary to link him to the conspiracy.

Specifically, he objects to Clayton's testimony that Billy Mayes had told him that he, Billy Mayes, was going to drive the car to the residence of L. C. Cook . . . the po-

tential buyer of this altered vehicle. Clayton further testified that to the best of his recollection "Mr. Mayes said that L. C. Cook had ordered this car for the purpose of an insurance fraud".

We agree that a prima facie case of the conspiracy and the defendant's connection with it must be established by evidence independent of that offered as an admission of a co-conspirator. *South-East Coal Company* v. *Consolidation Coal Company*, 434 F. 2d 767 (6th Cir. 1970); *Carbo* v. *United States*, 314 F. 2d 718 (9th Cir. 1963), cited with approval in *South-East Coal, supra*. See also *Glasser* v. *United States, supra*, at 74. However, a prima facie case is less than proof beyond a reasonable doubt; indeed, it is less than a preponderance. *South-East Coal, supra*, at 779. Moreover, the prima facie case need not be established before the proffered hearsay may be admitted; the judge may admit it conditionally. It is sufficient if at the close of the government's proofs, a prima facie case of the conspiracy and the defendant's connection with it has been established by "independent or disassociated evidence". *South-East Coal, supra*, at 788.

While the hearsay evidence contained in Barry Lynn Clayton's testimony was relevant to the ultimate issue of whether defendant Cook had participated in the conspiracy, it was not the only evidence of that participation. Upon a review of the record, we conclude that the necessary prima facie case had been made by the government independent of Clayton's testimony. The admission of the challenged evidence was, therefore, proper.

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CONCLUSION

In a trial of this magnitude, it is of course inevitable that some errors both in judgment and in law may have occurred, errors which in another trial might be cured only to be replaced by others as yet unknown. Our careful review of the entire record of this case, however, convinces us that there was sufficient and substantial evidence to support the jury convictions of each of the appellants, that the jury was fairly and fully instructed in the law, and that no reversible error intervened to deprive any of the defendants of a fair trial.

Affirmed.

UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF KENTUCKY
AT BOWLING GREEN

UNITED STATES OF AMERICA		
v.	}	No. 4218
L. C. COOK		

On this 24th day of May, 1973, came the attorney for the government and the defendant appeared in person and with employed counsel, E. R. Gregory.

IT IS ADJUDGED that the defendant has been convicted upon his plea of NOT GUILTY and a verdict of GUILTY of the offense of conspiring to commit an offense against the United States, that is, transport, receive, conceal, store, barter, sell and dispose of stolen motor vehicles which were moving in interstate commerce, in violation of Title 18, United States Code, Section 371, as charged in Count 1 of the twenty-five count indictment and the court having asked the defendant whether he or his attorney has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

IT IS ADJUDGED that the defendant is guilty as charged and convicted. Presentence report was not available for the Court's consideration.

IT IS ADJUDGED that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of TWO

YEARS ON Count 1 and a fine of FIVE THOUSAND DOLLARS.

IT IS ADJUDGED that the defendant is given until June 4, 1973, to pay the fine and that the defendant shall not stand committed for the fine.

IT IS ORDERED that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

/s/ MAC SWINFORD
United States District Judge.

May 29, 1973

The Court recommends commitment to:

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(Signed) _____ *(By)* _____
Clerk. *Deputy Clerk.*